

SENATE—Wednesday, March 9, 2005

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACk, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God most high, You rule forever and supervise the nations with justice. We thank You for Your grace and mercy. You are faithful to all who depend on You. Keep us from the gates that lead to ruin.

Bless our Senators; empower them to speak for justice, to love mercy, and to embrace humility. This day, give them the wisdom to plant seeds that will produce a bountiful harvest in the months ahead. Keep them in Your care and make certain that each step they take is sure.

Bless the members of each Senator's staff. Give each of us love that will follow You into a bright future. We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACk led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 9, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACk, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACk thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, this morning, following the 60 minutes of morning business, we will resume debate on the bankruptcy legislation. Yesterday, by a vote of 69 to 31, we were able to invoke cloture on the bill; therefore, we will finish the bill this week. Once we return to the bill this morning, there will be 40 minutes of debate prior to a series of votes on four of the pending amendments. These four votes can be expected to begin at around 11:30 this morning.

We will continue to work through the pending germane amendments to see which are ready for rollcall votes. And I presume we will have another series of votes later on today. We encourage Senators who have pending amendments to review whether they really need to ask for a recorded vote on each of their amendments. Perhaps we can further limit the number of amendments that will require rollcall votes so we can finish this bill at a reasonable hour, even today.

I thank my colleagues for their hard work on the bill. We are on the cusp here, on the verge of completing another very important piece of legislation in the early part of this Congress. We would like to wrap it up today if at all possible.

Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes with the first 30 minutes under the control of the majority leader or his designee and the second 30 minutes under the control of the Democratic leader or his designee.

Who yields time?

The Senator from the great State of Tennessee.

Mr. ALEXANDER. Thank you, Mr. President. I ask unanimous consent to speak for up to 10 minutes in morning business.

The ACTING PRESIDENT pro tempore. The Senator is recognized for up to 10 minutes.

MAJORITY RULE FOR CONFIRMING JUDGES

Mr. ALEXANDER. Mr. President, during the last session of Congress, Senators on the other side of the aisle blocked an up-or-down vote 20 times on 10 of President Bush's nominees for the Federal appellate courts. Filibusters were threatened against five more judicial nominees. With one possible exception, this has never happened before. The Senate has a 200-year tradition of majority rule when it comes to confirming judges. In fact, until the last session of Congress, the idea of not voting on a President's judicial nominee once it reached the floor was unthinkable.

It would be difficult to imagine a case in which passions ran higher than during the confirmation proceedings for Justice Clarence Thomas in 1991. Yet President Bush nominated Clarence Thomas in July of 1991, and 3 months later the Senate voted to confirm him, 52 to 48. There was never any discussion of blocking his nomination by blocking an up-or-down vote.

So in the spirit of compromise, I would like to, once again, offer my solution for avoiding what some in the minority call the "nuclear option" that would change Senate rules to prevent filibusters of President Bush's judicial nominees.

In an address on this floor 2 years ago, on March 17, 2003, I said I would reserve the right to vote against any judicial nominee of any President but that I would not filibuster the qualified court nominee of any President. That was before I knew whether the President would be named Bush or Kerry.

This is what I said then:

Before I finish my remarks, I make this pledge. I may be here long enough, and I hope it is a while, before I have an opportunity to cast a vote for a nominee for a Federal judgeship that is sent over by a Democratic President, but I can pledge now how I will cast my vote. It will be the same way I appointed 50 judges when I was Governor. I look for good character. I look for good intelligence. I look for good temperament. I look for good understanding of the law and of the duties of judges. I will look to see if this nominee had the aspect of courtesy to those who come before the court. I will reserve the right to vote against some extremists, but I will assume that it is unnecessary and unethical for the nominee to try to say to me how he or she would decide a case that might come before him or her. When it comes time to vote, when we finish that whole examination, I will vote to let the majority decide.

That is what I said 2 years ago. I also said:

In plain English, I will not vote to deny a vote to a Democratic President's judicial